

**REMARKS**

With this Response, claims 31, 34, 37-39 are amended. Claims 40 and 41 are added. No claims are cancelled. Therefore, claims 31-41 are pending.

**DOUBLE PATENTING REJECTION**

Claims 31-39 stand rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 3 of U.S. Patent No. 6,347,337 (referred to hereinafter as Shah).

Applicant respectfully traverses the rejection of claims 31-39. Applicant submits the present claims are distinguished from Shah by more than omissions. Applicant submits neither claim 1 nor claim 3 of Shah recite the feature of “sending a message from a first node if ... the number of buffers available at the second node to receive the received message is determined by the first node to be at least equal to two and” This feature is taught by the applicant in lines pg. 5, line 15 – pg. 6, line 2 to prevent deadlocking.

In contrast, Applicant finds claim 1 of Shaw to recite only a “determination of sufficient credits,” with claim 3 further specifying each credit to “represent one or more receive buffers.” Thus, there is not determination that there be at least two buffers available at the second node.

Furthermore, applicant submits Shaw fails to recite the feature of “sending a message from a first node if ...the number of buffers available at the second node to receive the received message is determined by the first node to be equal to one and the number of buffers available at the first node to receive another message is determined to be at least equal to one.”

It is Applicant’s position that Shaw, in contrast, fails to recite conditioning the sending of a message based on a determination of a number of buffers in the node to be sending the message (first node) prior to sending.

Thus, Applicant asserts it would not have been obvious to one having ordinary skill in the art at the time the invention was made to include at least these features absent from the claims in Shaw. On this basis, Applicant respectfully requests removal of the nonstatutory double patenting rejection of claims 31-39.

**CLAIM REJECTIONS - 35 U.S.C. § 101**

Claims 37-39 stand rejected under 35 U.S.C. §101 as directed at non-statutory subject matter. Applicant has amended the pre-amble of claims 37-39 to recite “computer-readable storage medium having stored thereon a set of instructions.” On this basis, Applicant request removal of the 35 U.S.C. §101 rejections of claims 37-39.

**CLAIM REJECTIONS - 35 U.S.C. § 102**

Claims 31-39 stand rejected under 35 U.S.C. §102(e) as anticipated by US Patent 6,594,701 to Forin (hereinafter referred to as Forin).

Applicant has amended independent claims 31, 34 and 37 to more clearly recite, in part:

“determining a number of buffers available at a second node to receive a received message;” and

sending a message from a first node if at least one of:

the number of buffers available at the second node to receive the received message is **determined by the first node to be at least equal to two...**”

Thus, as amended, the claims recite a method the feature of the first node determining the number of buffers at the second node to be at least equal to two. Such a determination is beyond a mere counting of buffers because a specific comparison is performed.

In contrast, Applicant finds no disclosure in Forin of the sender determining the receiver to have at least two buffers. Thus, while Forin Figure 2 may provide an illustrative description

of two receive buffers 78, there is no appreciation of a need to determine the number of buffers to be at least equal to two. Therefore, Applicant submits Forin fails to anticipate Applicant's amended claims 31, 34 and 37 for at least this reason. On this basis Applicant requests the Examiner to remove the 35 U.S.C §102 rejection of claims 31, 34 and 37, as well as their dependents which should be allowable for at least these same reasons.

**New Claims 40 and 41**

Applicant has added new claim 40 to clarify the alternative if the criteria of the conditional sending of a message is not satisfied. Specifically, no message is sent. It is Applicant's position Fori fails to disclose not method where a message is not sent if the number of buffers available at the second node to receive the received message is determined by the first node to not be at least equal to two, etc.

Applicant has added new claim 41 to further specify "determining a number of buffers available at the first node to receive another message." It is Applicant's position that Forin fails to disclose any such feature.

On this basis, Applicant submits claims 40 and 41 are allowable.

**CONCLUSION**

Applicant respectfully requests examination of the above-identified application in view of the response.

For at least the foregoing reasons, Applicant submits that the rejections of the claims have been overcome herein, placing all pending claims in condition for allowance. Such action is earnestly solicited. The Examiner is respectfully requested to contact the undersigned by telephone if such contact would further the examination of the above-identified application.

The Commissioner is authorized to charge or credit any deficiencies or overpayments in connection with this submission to Deposit Account No. 02-2666, and is requested to notify us of same.

Respectfully submitted,  
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